

**Notice of Allowability**

<b>Application No.</b> 10/780,818	<b>Applicant(s)</b> BACKES ET AL.	
<b>Examiner</b> TAN TRINH	<b>Art Unit</b> 2618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- 1.  This communication is responsive to 6-27-2007.
- 2.  The allowed claim(s) is/are 1-3.
- 3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

- 4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  - 5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
    - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
- 6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- 1.  Notice of References Cited (PTO-892)
- 2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3.  Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
- 4.  Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 5.  Notice of Informal Patent Application
- 6.  Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
- 7.  Examiner's Amendment/Comment
- 8.  Examiner's Statement of Reasons for Allowance
- 9.  Other \_\_\_\_\_

**DETAILED ACTION**

1. Regarding the double patenting rejection as in the previous action, it is now withdraw base on applicant's submitted a Terminal Disclaimer file on 06-27-2007.

***Allowable Subject Matter***

2. Claims 1-3 are allowed.

***Reasons for allowance***

3. The following is an examiner's statement of reasons for allowance:

Regarding independent claim 1, the reference of Shpak (U.S. Patent No. 6,907,229) teaches a wireless network (see fig. 1) comprising: a plurality of access points (see fig. 1, access points (AP) 22-23, 25 and 27), and access points transmit TPC messages to other access points using the nominal level and below interference threshold level (see col. 8, lines 64 - col. 9, lines 28). However, Shpak alone or in combination with other prior art of record, fail to disclose the access points cooperative to automatically choose channels for operation so that each access point uses a different channel, the access points being further cooperative to share channels in a manner that minimizes interference if no free channels remain; wherein access points sharing channels decrease their transmit power to minimize same channel interference; wherein access points transmit messages including a Backoff value to other access points, the Backoff value indicating to the other access points how far the transmitting access point's power has been adjusted down; wherein the access points that received the messages use the Backoff value to determine their own Backoff values, as specified in independent claim 1. And also the prior art

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of record fail to disclose or render obvious the claimed invention for the same reasons as stated in applicant's response filed on 06-27-2007, on remarks pages 6-7.

Claims 2-3 are allowed with the same reasons set forth in the previous Office action (paper mailed on 04-09-2007).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Conclusion***

**4. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(571) 273-8300, (for Technology Center 2600 only)**

*Hand-delivered responses should be brought to the Customer Service Window (now located at the **Randolph Building, 401 Dulany Street, Alexandria, VA 22314**).*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Trinh whose telephone number is (571) 272-7888. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, Anderson, Matthew D., can be reached at (571) 272-4177.

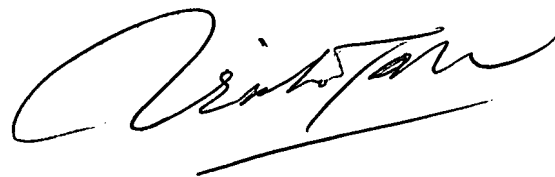
The fax phone number for the organization where this application or proceeding is assigned is **(571) 273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600 Customer Service Office** whose telephone number is **(703) 306-0377**.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tan H. Trinh  
Division 2618  
August 29, 2007

**PATENT EXAMINER**  
**TRINH, TAN**

A handwritten signature in black ink, appearing to read 'Tan H. Trinh', written over a horizontal line.